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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2684 OF 2005

Dr. Sandip Rane & ors. ... Petitioners

V/s

Municipal Corporation of Gr. Mumbai & ors. ... Respondents

ALONGWITH
WRIT PETITION NO. 2989 OF 2005

The Committee for Projections Democratic Right ... Petitioner

V/s

State of Maharashtra & ors. ... Respondents

ALONGWITH
WRIT PETITION NO. 37 OF 2006

Bhrashtachar Nirmoolan Sanghatana, Mumbai & anr. ... Petitioners

V/s

Union of India & ors. ... Respondents

Mr. Vivek Shiralkar i/by M/s. Shiralkar & Co. for the petitioners in W.P. No.2684 of 2005.

Ms. M.M.Malar i/by Rekha Rajgopal for the Resp. No.5 in W.P.No. 2684 of 2005.

Ms. Seema Chhetri with suresh Kumar for the Resp.No.7 in W.P.No. 2684 of 2005.

Ms. Shakuntala Joshi i/by Anand Poojari for the petitioners in PIL No. 37 of 2006.

Mr. R.B. Raghuvanshi, A.S.G. for the Respondent Union of India.

Mr. K.K. Singhavi, Sr.Advocate with Ms. Shobha Ajeet Kumar for the respondent B.M.C.

Mr.D.N.Nalawade, Govt. Pleader for the respondent State.

Ms. Kiran Bagaria for the respondent M.M.R.D.A.

CORAM: J.N. PATEL &
SMT. NISHITA MHATRE, JJ.

DATED: 21ST NOVEMBER, 2007.

P.C.:

1. These are public interest litigations in which the petitioners have sought directions against the Municipal Corporation for Greater Mumbai to take immediate steps to ensure that there is no flooding of the city in the monsoon.

2. P.I.L.No.2684 of 2005 is the main petition in which the petitioners have sought implementation of the BRIMSTOWAD Report. The prayers sought in that petition are as follows:-

> **"PRAYER A: Drainage System.**
>
> (i) that, this Hon'ble Court be pleased to issue a writ of mandamus or such other appropriate writ, order or directions of this Hon'ble Court directing the concerned respondents herein to implement recommendations of the whole of BRIMSTOWAD Report with such improvements or upgradation

as may be required for upgradation of the drainage system in Bombay in an expeditious and time bound manner at the earliest;

(ii) that the open water drainage system along the Eastern and Western Express Highway and other main roads and by-lanes which are covered by concrete slabs be opened and covered with iron grills, so as to ensure free flow of water into the drains and easy cleaning of the drains;

(iii) the drainage system in Bombay be directed to be brought under the sole and exclusive control of Municipal Corporation of Greater Mumbai and all other respondents and statutory authorities be ordered and directed to comply with the directions and orders of the Municipal Corporation of Greater Mumbai and no further work of construction of roads, digging or diverting of natural or artificial water drains, buildings or otherwise be allowed to be done without clearance of High Power Committee appointed by S.W.D. Department of Municipal Corporation of Greater Mumbai;

(iv) that appropriate drainage system and culverts be installed in a time bound programme along the railway tracks so as to avoid water, flooding the railway tracks;

(v) that all natural drains and rivers in Bombay be de-silted, cleaned, deepened and/or widened so as to allow free flow of water and avoid water logging;

(vi) that approximate measures be taken to identify the areas which are prone to be affected by flood and water logging and appropriate measures be taken to establish pumping stations to pump out the water in emergencies;

(vii) that choking of the mouth of Mithi River at Mahim be removed.

PRAYER-B: Waste Management and Cleaning of Public streets and utilities.

That a writ of mandamus and/or such other

appropriate writ or order and/or directions be passed against all the concerned respondents to the effect that -

(i) the entire city is cleaned of waste and rubbish accumulated at various places, drainage systems, nallas, railways tracks, roads and providing for clearing the accumulated wastes at regular intervals and several times a day and to ensure that no wastes are accumulated on the roads;

(ii) laws relating to cleanliness and throwing of waste and litter be stringently and strictly enforced;

(iii) the respondents be directed to take steps for removal of waste at regular intervals at least 2-3 times a day;

(iv) all receptacles/collection centers shall be kept clean and tidy every day and garbage/rubbish should not be allowed to be found around the collection centers;

(v) respondent No.1 be directed to comply with Solid Waste (Management and Handling) Rules 2000;

(vi) that order and directions be passed for construction of an additional 70,000 public toilets throughout the city of Mumbai at appropriate locations;

(vii) increasing the number and locations of dumpsters on the roads and regular cleaning of these dumpsters be carried out at least twice a day to prevent the accumulation of garbage;

(viii) that dry waste and wet waste be segregated at the point of collection by providing for separate dump stands or bins.

PRAYER-C: Sewage System.

That appropriate orders and directions be passed against respondent No.1:-

(i) to implement Macdonald Report regarding the sewage system in Mumbai;

(ii) that the sewage water should be treated under stringent pollution control norms before it is allowed to be drained in the sea;

(iii) that the drainage and sewage system be ordered to be separated;

(iv) adequate pumping stations be provided for pumping out of the treated sewage water in the sea.

PRAYER-D: Local Railways.

That appropriate orders, directions or writ be issued against the respondent Nos. 4 and 7 for the following:-

(i) increasing the frequency of locals in Mumbai and number of railway rakes and improving state of railway platforms, bridges, ticketing counters, toilets, entry and exit points and railways tracks, etc.;

(ii) installation of water pumps at areas, which are prone to flooding for pumping out the water and if required elevate the railway tracks at appropriate places;

(iii) Laying of adequate culverts or drains alongside or under the rail tracks for free and easy flow of storm water.

PRAYER-E: Disaster Management Plan.

Directions to be given to the concerned respondents to set up a proper Disaster Management Plan for city of Mumbai with the help and involvement of the police, fire brigade, State and Municipal Hospitals, Health Centres, Reserve Police and Central Reserve Police and Indian Army, which should be available at short notice to render necessary help and succour to the affected persons and as set out in this petition.

PRAYER-F: Right of Information Act.

(i) Appropriate orders and directions be passed to ensure that the provisions of Right to Information Act are effectively implemented

by the respondents and true copies of the documents are made available to the citizens at reasonable costs not exceeding Rs.1/- per page.

3. Affidavits have been filed on behalf of the Municipal Corporation of Greater Mumbai on various occasions detailing the efforts taken by the Corporation to implement the recommendations contained in the BRIMSTOWAD Report. Dilip Kamalakar Pathak, Deputy Chief Engineer (SWD) of the Corporation has also filed an affidavit on 30th October, 2007 wherein he has stated that the works would be undertaken in accordance with the BRIMSTOWAD Report in two phases. He has stated that, out of 20 works proposed in Phase-I, 19 works are in progress and the construction of the pumping station is expected to commence shortly. He has also stated that the works in respect of Phase-II will commence in January, 2008. Finally it has been stated that, all works undertaken as per the BRIMSTOWAD Report are proposed to be completed in the year 2011.

4. In our view, therefore, prayer clauses (A) & (C) of the petition have been adequately answered by the Corporation. We expect, the Corporation and its officials to abide by the statements made in the affidavits filed by them in this petition.

5. As regards Prayer (B) regarding Waste Management and Cleaning of Public Streets and Utilities, we expect that the Corporation will take appropriate steps to implement the Waste Management Programme and ensure that public streets and utilities are cleaned.

6. The petitioners in P.I.L.No.2684 of 2005 have sought directions against the local railways in prayer clause (D). We refrain from considering this prayer in this petition as the Corporation has no control over the local railways. We, therefore, permit the petitioners to agitate this prayer in future, if necessary.

7. In view of the above, we dispose of the petitions accepting the statements made in the affidavits filed by the respondent Corporation.

(J.N. PATEL, J.)

(SMT.NISHITA MHATRE, J.)